

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 15

Exemption from the Tax on Sales, Use, and Other Transactions

SPONSOR(S): Flores

TIED BILLS:

IDEN./SIM. BILLS: SB 1554

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Colleges & Universities Committee</u>	<u></u>	<u>Hatfield</u>	<u>Tilton</u>
2) <u>Finance & Tax Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Education Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill provides a sales tax exemption for required or recommended textbooks purchased by full-time and part-time postsecondary students for courses at an institution of higher education. The bill requires students to present a valid student identification card upon purchase of such textbooks.

The bill defines textbooks as only those textbooks and textbook supplements specifically written, designed, or produced for educational, instructional, or pedagogical purposes.

The bill defines institution of higher education as any institution of higher education recognized and approved by the Department of Education, or accredited by a nationally recognized accrediting agency or association accepted as such by the Department of Education, that provides a course of study leading to the granting of a postsecondary degree, certificate, or diploma.

The Revenue Estimating Conference has estimated this bill will have a fiscal impact of \$39.4 million to state government and \$8.9 million to local governments in the 2006-2007 fiscal year. Please see the FISCAL Section of the bill analysis for further details.

The provisions of this bill appear to reduce the authority that cities and counties have to raise revenue through local option sales taxes. The bill does not appear to qualify for an exemption or exception. Therefore, the constitutional mandate provision may be applicable and this bill may require a two-thirds vote of membership of each chamber for passage.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes—The bill eliminates the sales tax paid on the purchase of required or recommended textbooks and textbook supplements by full-time and part-time postsecondary students for courses at an institution of higher education.

B. EFFECT OF PROPOSED CHANGES:

Background

Chapter 212, F.S., contains the statutory provisions authorizing the levying and collection of taxes on sales, use, and other transactions. This chapter also contains provisions for sales and use tax exemptions and credits applicable to certain items and under certain circumstances. At present, all textbooks and textbook supplements purchased by postsecondary students for their courses are subject to the six percent statewide sales tax and the local option sales taxes imposed under ch. 212, F.S.

Currently, s. 212.08(7)(r), F.S., provides a tax exemption for school books purchased for students enrolled in both public and private K-12 schools, but not for school books purchased by postsecondary students.

From 1998-2001 and 2004-2005, the Florida Legislature provided tax relief and exemptions for certain back-to-school related expenses. These exemptions have typically grouped certain items in categories of \$100 or less, \$50 or less, or \$10 or less. During a specific time period prior to the beginning of a school year items listed in these price categories are exempt from taxation.

Currently, 15 states have sales and use tax exemptions for college textbooks. New York has had a sales tax exemption on higher education textbooks since 1998; other states include Minnesota, Tennessee, and New Jersey. Several states, such as Wisconsin and Texas, have proposed a textbook exemption, but the measure has failed. Typically, this has to do with the estimated revenue loss that may occur from such legislation. Currently, Washington, Georgia, and Maryland are considering such legislation and Tennessee has a bill filed to extend the current exemption to include electronic textbooks.

Effects of Proposed Changes

The bill provides a sales tax exemption for required or recommended textbooks purchased by full-time and part-time postsecondary students for courses at an institution of higher education. The bill requires students to present a valid student identification card upon purchase of such textbooks.

The bill defines textbooks as only those textbooks and textbook supplements specifically written, designed, or produced for educational, instructional, or pedagogical purposes.

The bill defines institution of higher education as any institution of higher education recognized and approved by the Department of Education, or accredited by a nationally recognized accrediting agency or association accepted as such by the Department of Education, that provides a course of study leading to the granting of a postsecondary degree, certificate, or diploma.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., relating to an exemption from the tax on sales; exempting certain textbooks from the tax and providing definitions.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The March 10, 2006, Revenue Estimating Conference estimated that this bill will have the following fiscal impact on state government:

	2006-2007	2007-2008
General Revenue	(39.3)	(43.0)
Trust	(.1)	(.1)
Total State Impact	(39.4)	(43.1)

These figures represent an increased revenue impact from the previous, March 3, 2006, Revenue Estimating Conference. The previous impact, -23.2 and -24.8, respectively, only included public and private degree-granting institutions of at least two years or higher and only students enrolled in the fall term. The updated figures include public and private institutions that grant less than two-year degrees, which accounts for an additional 82,284 students. The updated figures also use an unduplicated annual headcount of enrolled students, rather than students only enrolled in the fall term.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The March 10, 2006, Revenue Estimating Conference estimated that this bill will have the following fiscal impact on local governments:

	2006-2007	2007-2008
Revenue Sharing	(1.3)	(1.4)
Local Gov't Half Cent	(3.8)	(4.1)
Local Option	(3.8)	(4.1)
Total Local Impact	(8.9)	(9.6)

These figures represent an increased revenue impact from the previous, March 3, 2006, Revenue Estimating Conference. The previous impact, -5.0 and -5.6, respectively, only included public and private degree-granting institutions of at least two years or higher and only students enrolled in the fall term. The updated figures include public and private institutions that grant less than two-year degrees, which accounts for an additional 82,284 students. The updated figures also use an unduplicated annual headcount of enrolled students, rather than students only enrolled in the fall term.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Students purchasing tax exempt textbooks and textbook supplements will pay less for these items.

According to the Board of Governors', the National Association of College Stores reported that in 2004-2005 students spent from \$773 to \$870 for books and supplies for an academic year. Using the \$773 estimate and multiplying it by the .06 sales tax, a student would have saved approximately \$46 in state sales taxes if a sales tax exemption had been in place.¹

Retailers may incur costs associated with implementing this new tax exemption.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The provisions of this bill appear to reduce the authority that cities and counties have to raise revenue through local options sales taxes. The bill does not appear to qualify for an exemption or exception. Therefore, the constitutional mandate provision may be applicable and this bill may require a two-thirds vote of the membership of each chamber for passage.

2. Other:

None

B. RULE-MAKING AUTHORITY:

Under existing law, the Department of Revenue (DOR) may adopt rules to administer the exemption proposed by this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Definition of institution of higher education:

The Florida Department of Education does not recognize or approve institutions of higher education in Florida. In addition, this definition does not specify whether the student must be enrolled in a Florida institution of higher education.

Definition of textbooks:

The definition in this bill may exclude books such as novels, and business and leadership books. These books may be required for a course, but because they were not written, designed, or produced for educational, instructional, or pedagogical purposes they may not qualify for the tax exemption.

Burden of proof:

Currently, the bill does not require the student to verify that the textbook is required or recommended for a course.

Internet sales:

It appears that the requirement that the student present a valid student identification card eliminates the ability to receive the tax exemption when purchasing textbooks over the internet.

The sponsor of the bill plans to offer an amendment that would make the following changes to the bill:

- Clarifies that the exemption applies to degree-seeking postsecondary students.

¹ Florida Board of Governors, 2006 Legislative Bill Analysis, HB 15, February 16, 2006, at 3.

- Requires the student to present a valid student identification card from an eligible institution of higher education and documentation which confirms such textbooks are required or recommended for the course in which the student is enrolled when purchasing such textbooks.
- Removes the definition of “textbooks.” A valid textbook must be one required or recommended for a course at an eligible institution of higher education.
- Defines the term “institution of higher education” as
 - A Florida public university or community college.
 - A baccalaureate-degree granting independent nonprofit college or university, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools and which is located in and chartered as a domestic corporation by the state.
 - An independent Florida postsecondary education institution that is licensed by the Commission for Independent Education and that is authorized to grant degrees.

By limiting the exemption to only degree-seeking students attending institutions of higher education as defined in the amendment, the current estimate on revenue loss will decrease.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES